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Or 3a

PUBLISHED BY AUTHORITY

AN ACT

TO GOVERN THE

SALE AND DISPOSITION

OF

STATE LANDS

PASSED BY THE

LEGISLATIVE ASSEMBLY OF 1907

IN EFFECT MAY 25, 1907

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Oregon - Laws, statutes, etc.
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1907



SALEM, OREGON
WILLIS S. DUNIWAY, STATE PRINTER
1907

336.12

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RELATING TO SALE OF STATE LANDS.

CHAPTER 117.

AN ACT

[H. B. 324.]

Providing for the acquisition, classification, management, control, leasing, sale and disposition by the State of Oregon of all lands inuring to said State from any and all sources, and for the management and investment of the moneys arising therefrom, constituting all necessary officers therefor, specifying their duties and salaries, and giving them full powers for the performance thereof, protecting said lands from trespass and injury, providing penalties for the enforcement of the provisions of this act, and repealing Chapters 2 and 3 of Title XXXII of Bellinger and Cotton's Annotated Codes and Statutes of Oregon, relating to public lands, an act entitled "An act providing for the selection of indemnity school land, and governing the sale of the same, and fixing the price thereof," approved February 24, 1903, an act entitled "An act to amend section 3298 of Bellinger and Cotton's Annotated Codes and Statutes of Oregon," approved February 18, 1905, and an act entitled "An act to authorize and provide for the investment of the surplus of the irreducible school fund, university fund, or agricultural college fund, held by the State Land Board, and to authorize the said land board to make such investments," approved February 12, 1903.

Be it enacted by the People of the State of Oregon:

Section 1. The Governor is hereby appointed Land Commissioner for the State of Oregon, and empowered to locate or select the lands to which the State is entitled under the laws of the United States, or otherwise, and he shall be allowed all necessary expenses incurred by him in the performance of the duties prescribed by this act; and he is hereby authorized to appoint such agent or agents as may be necessary in the performance of his duties.

Section 2. The Governor shall appoint a "State Land Agent" who shall serve at the pleasure of the Governor, during good behavior, and whose duty it shall be to ascertain and make a record of the losses sustained by the State of Oregon in sections 16 and 36 by or through the United States by reason of settlements, mining claims, Indian reservations, forest reserves, fractional townships, or otherwise, and to satisfy said losses by the selection of vacant government land in accord-

ance with the laws of the State and the United States; and he shall perform such other duties as are hereinafter provided, or as may be required by the Governor or the State Land Board.

Section 3. The State Land Agent shall receive an annual salary of one thousand eight hundred dollars per annum, same to be paid quarterly as other salaries are paid; and he shall be allowed nine hundred dollars per annum for clerical assistance and shall be allowed all necessary expenses incurred by him in the performance of his duties, and said expenses and allowance for clerical assistance shall be paid by order of the State Land Board out of the school fund interest account.

Section 4. For the purpose of this act the state lands shall be classified as follows:

(a) *School Lands.* Sections 16 and 36 in each township granted to the State by act of Congress approved February 14, 1859; all lands selected for internal improvements under the act of Congress of September 4, 1841, and all lands selected for capitol building purposes under the act of Congress approved February 14, 1859.

(b) *Indemnity Lands.* Lands selected to satisfy losses in sections 16 and 36, as provided by the laws of the United States.

(c) *University Lands.* Lands granted to the State by the United States for the support and maintenance of the State University.

(d) *College Lands.* Lands granted to the State for the support and maintenance of the State Agricultural College.

(e) *Swamp Lands.* Land claimed by the State under the act of Congress, approved September 28, 1850, and extended to the State of Oregon, by an act of Congress, approved March 12, 1860.

(f) *Tide and Overflow Lands.* All lands over which the tide ebbs and flows from the line of ordinary high tide to the line of mean low tide, and all islands, shore lands, and other such lands held by the State by virtue of her sovereignty.

(g) *Farm Lands.* Lands acquired by deed, gift, operation of law, or by the foreclosure of mortgages taken to secure loans from the school, college, university, or other funds.

Section 5. The Governor, Secretary of State, and State Treasurer are hereby made a Board of Commissioners for the sale of state lands, and for the investment of the funds arising therefrom, and shall be styled the "State Land Board"; said State Land Board shall have power, and is hereby authorized to use a common seal, and the Secretary of State shall procure such seal for said board.

Section 6. The State Land Board shall have power and is hereby authorized to appoint a clerk, who shall be known as the "Clerk of the State Land Board," and shall serve for four

years, or during good behavior. He shall keep his office in the State House, and shall have power to take and certify the proof and acknowledgement of a conveyance of real property, or any other written instrument authorized or required to be proven or acknowledged; and it shall be his duty to keep the seal of the board, and affix it in all cases where he is required by law; to keep the records, files, and other papers pertaining to his office; to attend all meetings of the board; to keep a faithful record of all transactions; to administer oaths; to receive and place on file all applications for the purchase of lands or loans of money; to receive all communications addressed to the board, and place the same on file; to conduct all correspondence required by the board; to receive, receipt for, and make immediate payment to the State Treasurer of all moneys received for the sale of lands, taking his receipt therefor, specifying the particular fund to which such moneys belong, and whether received as principal or interest, and to perform such other duties and acts as the board may direct.

Section 7. Said clerk of the State Land Board shall take an oath of office to faithfully perform the duties of his office, and shall execute an undertaking in such sum as the board may prescribe, (not less than five thousand dollars), conditional that he will make immediate payment to the State Treasurer of all moneys coming into his hands as clerk of such board, and otherwise perform the duties of his office.

Section 8. The clerk of the State Land Board shall receive an annual salary of two thousand four hundred dollars, which shall be paid quarterly, upon order of the board, from the school fund interest account.

Section 9. The State Land Board is hereby authorized to sell or lease all lands owned by the State, and shall make such rules and regulations as are necessary for the transaction of business and carrying out the provisions of this act. They shall meet on the second and fourth Tuesdays of each month, and shall have authority to pass upon all matters properly coming before them for consideration, and in any way affecting the lands of the State; to hear and decide all disputes between applicants; to cancel and annul certificates of sale obtained through fraud, or in any illegal manner; and all their acts and decisions as to the legal title, and the right to a certificate of sale or deed from the State, shall be final.

Section 10. All necessary expenses for clerical assistance, books, blanks, stationery, postage, and other incidental expenses, shall be audited, upon proper vouchers, and paid by order of the board out of the interest fund.

Section 11. Any person over 18 years of age, who is a citizen of the United States, or has declared his intention to be-

come such, is entitled to purchase any of the lands of the State, and any such person desiring to purchase state lands, other than farm lands, shall file with the clerk of the State Land Board an application to purchase, which shall be substantially as follows:

APPLICATION TO PURCHASE.

To the State Land Board:

I hereby apply to purchase the following described lands, situated in County, Oregon, to-wit:

.....

all in township, range, containing acres, and I agree to pay for the same according to law.

.....
Signature of Applicant.

This day of, A. D. 190....

State of Oregon,

County of

}
ss.

I,, being first duly sworn, say that I am over eighteen years of age; that I am a citizen of the United States; that I reside at No. street, city of county of, State of, and my post-office address is; that the proposed purchase is for my own benefit; that I have not directly made any previous purchase of land from the State of Oregon of the kind described above, nor has any one for me, which, together with the land described in the above application, exceeds three hundred and twenty acres; that I have made no contract or agreement, expressed or implied, for the sale or disposal of the land applied for, in case I am permitted to purchase the same, and that there is no valid adverse claim thereto.

.....
Signature of Applicant.

Signed in the presence of

.....
.....

Subscribed and sworn to before me this day of 190...., and I hereby certify that I am personally acquainted with the applicant whose signature appears above, and that he is the identical person described in the foregoing affidavit.

State of Oregon,

County of

}
ss.

I,, residing at No. street, city of, county of, and State of and, residing at No. street, city of, county of and State of, being first duly sworn, depose and say, each for himself, that the address given after my name herein is my true place of residence; that the within

applicant is personally known to me; that he signed and swore to the within application in my presence, and I signed my name as a witness to h..... signature in h..... presence; and that I believehe makes the within application for h..... own use and benefit.

.....

.....

Subscribed and sworn to before me this day of, 190..., and I hereby certify that I am personally acquainted with the persons whose signatures appear above, and that they are the identical persons described in the foregoing affidavit.

.....

.....

Said application shall contain a correct and precise description of the lands applied for, in accordance with the survey thereof, by the United States, and the required affidavits therein shall be made before some notary public or county clerk in this State; *provided, however*, that where application is made for tide or overflow lands, the applicant shall, at his or her own expense, cause the same to be surveyed by the county surveyor for the county in which the lands lie; such survey to connect with and conform to the adjacent surveys of the United States, so far as may be practicable; and shall submit to the State Land Board, with his or her application, an accurate map of the lands applied for, showing the courses and distances of the boundary line, and a correct calculation of the area thereof, which map shall be duly verified by the oath of the said surveyor. Applicants to purchase tide or overflow lands shall, in addition to the usual declaration contained in applications to purchase, make the following declaration and waiver, to-wit: "This application is made with a full knowledge of the character of the land applied for and of the title of the State thereto, and I hereby waive and relinquish all right to and claim upon the State for the return of the purchase price of said lands, in case said lands, or any part thereof, do not belong to the State."

Section 12. The State Land Board shall require applicants to purchase tide and overflow lands to pay in full for such lands at the time of purchase; but applicants to purchase school, college, university, swamp, or indemnity lands may, if they so desire, make payments as follows: One-fifth of the purchase price in cash, at the time of purchase; one-fifth in one year, with interest at eight per cent per annum; one-fifth in two years, with interest at seven per cent per annum, and the remaining two-fifths of the purchase on demand with interest at six per cent per annum, interest on all deferred payments payable annually; *provided, however*, that the demand

payment shall not be allowed to stand for a longer period than five years from the date of the issuance of the certificate.

Section 13. When an applicant to purchase desires to make payments in installments, as provided in section 12, the State Land Board shall, upon receipt of one-fifth of the purchase price of the lands applied for, deliver to the purchaser a certificate that he has contracted to purchase the lands therein described, has paid a certain sum thereon, and has undertaken to make certain other payments, specifying the amounts, times of payment, and rates of interest and that, upon making full payment of principal and interest as specified, and upon the surrender of the certificate of sale, the purchaser, his heirs or assigns, shall be entitled to a deed for the lands therein described; but in case any installment of principal or interest shall remain unpaid for one year after the same becomes due, then the sale and certificate shall be void, and all payments thereon shall be forfeited.

Section 14. The State Land Board shall preserve, in a bound volume, duplicates of all certificates of sale issued, with an alphabetical index to the same, and shall note on each duplicate all the payments of principal or interest made on the purchase price of the lands described in such certificate.

Section 15. All assignments of certificates of sale shall be executed and acknowledged in the same manner as a deed to real estate, and the assignee, upon full payment of the amount due on the purchase price, and delivery to the board of such certificate and assignment, shall receive a deed, for the lands described in such certificate, in his own name, as if he were the original purchaser.

Section 16. If any installment of the purchase price of land, principal or interest, shall remain unpaid for one year after the same becomes due, the certificate shall, without further notice, be cancelled by order of the board, and all payments thereon shall be forfeited, and the land shall be deemed vacant and subject to sale as if it had not been before sold.

Section 17. When full payment of the purchase price is made at the time of purchase, or upon full payment of the installments due on the certificate of sale as provided in sections 13 and 15 of this act, the purchaser shall receive a deed substantially in the following form:

STATE OF OREGON.

In consideration of dollars,
 paid to the State Land Board, the State of Oregon does hereby grant,
 bargain, sell and convey unto

the following described lands, to-wit: *Situate in*
County, Oregon:

.....

Subject, however, to right-of-way for ditches, canal and reservoir sites for irrigation purposes, constructed, or which may be constructed, by authority of the United States or otherwise, which right-of-way is hereby expressly reserved.

To have and hold the same, unto the said

 his heirs and assigns forever.

Witness the seal of the State Land Board
 affixed this day of

.....
 Governor.

 Secretary.

 Treasurer.

Which deed, without acknowledgment, shall be admitted to record, and shall convey to the grantee all the estate which the State has in the lands at the date thereof; and the board shall preserve in a bound volume a true copy of all such deeds, with an alphabetical index of the names of grantees, and such copies shall be primary evidence of such conveyance.

Section 18. The State Land Board may fix the price at which school, university, college, and swamp lands may be sold; *provided, however*, that no such lands shall be sold for less than two dollars and fifty cents per acre.

Section 19. All tide and overflow lands shall be sold or leased only to the highest bidder, after being duly advertised for a period of sixty days in two or more newspapers of general circulation in the State, one of which must be a paper published in the county in which the lands lie; *provided, however*, that no such lands shall be sold for less than five dollars per acre, and that the owner or owners of any lands abutting or fronting on such tide and overflow lands shall have the preference right to lease or purchase at the highest price offered, provided the offer is made in good faith; and it is *further provided*, no accretions to islands heretofore sold by the State shall be leased and that no tide or overflowed lands, excepting those connected with the shore, shall be sold until ten years after the approval of this act.

Section 20. The price of indemnity land shall be fixed from

time to time by the State Land Board; *provided, however*, that no such lands shall be sold for less than five dollars per acre.

Section 21. The State Land Agent shall, if the State has available base or scrip, select as idemnity lands such vacant government lands as may be applied for by legal applicants, upon receipt of their applications to purchase, together with the non-mineral affidavit and filing fees, as required by the rules and regulations of the General Land Office, and a payment of at least one-fifth of the price of indemnity lands as fixed by the State Land Board; and he shall upon return of a copy of the selection list approved by the register and receiver of the local United States land office, pay over to the clerk of the State Land Board such moneys as were received on account of the purchase price of said lands, taking his receipt therefor in the name of the person making application to purchase said lands; and such moneys so received by the clerk of the State Land Board shall be paid to the State Treasurer; and when said lands have been clear listed or patented to the State by the United States, the board shall issue deeds or certificates, as the case may be, to the applicants; *provided, however*, that no certificate or deed shall be issued for indemnity lands until the same have been patented to the State by the United States, and that in the event of failure by the State to secure patent, the money so received shall be repaid to the applicant upon his or her making proper application to the board and surrendering the clerks' receipt.

Section 22. Any legal applicant is entitled to purchase three hundred and twenty acres of each of the following classes of land, to-wit: School, indemnity, university, college, swamp, or tide and overflow lands; *provided, however*, that where a section contains legal subdivisions of odd acreage, the board may, in its discretion, accept an application for an amount not to exceed three hundred and thirty acres; and, *provided, further*, that nothing contained herein shall interfere with the issuance of deeds to the holders of assignments of certificates of sale as hereinbefore provided.

Section 23. The State Land Board is hereby authorized to execute leases and contracts for the mining of gold, silver, copper, lead, cinnabar, or other valuable minerals from any lands which the State now owns and to which it may hereafter acquire title, and shall make such rules and regulations as may be necessary in carrying out the provisions of this act.

Section 24. Any citizen of the United States finding precious minerals upon any unsold lands of the State of Oregon may apply to the State Land Board for a lease of any amount of land not to exceed the amount and dimensions allowed by the mining laws of the State and the United States.

Section 25. The manner of locating a mineral claim upon state land shall be in accordance with the law of the State regulating the location of mineral claims on government lands; *provided*, that any citizen or citizens who may have found minerals on unsold state lands previous to the passage of this act and posted notices in accordance with the mining laws of the State of Oregon and the United States, shall have preference right to lease the same, and shall have ninety (90) days after the passage of this act, in which to make application to the State Land Board for such lease

Section 26. For the purpose of developing such mine or mines, the applicant shall, upon payment of twenty-five (25) dollars, receive from the State Land Board a lease for two years; *provided, however*, that no more than five tons of ore shall be removed from the premises for assaying or testing purposes until a contract shall have been executed, as hereinafter provided.

Section 27. The lessee may cut and use the timber found upon said premises for fuel, and in the construction of buildings required in the operation of any mine, or mines, on the premises, also the timber necessary for drains, tramways and supports for such mine, or mines, but for no other purpose.

Section 28. Any time prior to the expiration of said lease, the lease holder, or any assignee thereof, shall have the right to obtain from said State Land Board a contract, which shall bind the State of Oregon as a party of the first part, and the person or persons, or corporation, to whom said contract shall issue, as party of the second part, in a mutual observance of such obligations, terms, and conditions as may be agreed upon by said State Land Board and the said lessee.

Section 29. When the lessee commits fraud, the penalty shall be the forfeiture of the mine, or mines, and all property pertaining thereto, and all moneys paid thereon.

Section 30. If any person shall cut down, remove, destroy, or injure, or permit to be cut down, remove, destroyed, or injured, any timber, trees, or firewood, standing, growing, or lying upon any of the lands of this State before deed shall have been issued by the State therefor, as provided by law, or shall take or remove, or cause to be taken or removed from any such lands, any timber, wood, clay, sand, or other material or substance thereon, or shall, unless he be a bona fide mineral claimant under the mining laws of the United States or by contract with the State, dig, quarry, take or remove any mineral, earth, or stone from such lands, or shall cause to be dug, quarried, taken or removed any mineral, earth, or stone from such lands, or shall otherwise injure, deface, or damage or shall cause to be injured, defaced, or damaged, any such lands, he shall be

deemed guilty of a misdemeanor, and upon conviction shall be punished by imprisonment in the county jail for not less than one month, nor more than one year, or by fine of not less than fifty, nor more than one thousand dollars, or both; *provided*, that the State shall not be required to prove title to the lands in question, and the fact that said lands have been selected by the State, or are a part of section 16 or 36 in any township, shall be accepted as *prima facie* evidence of the state's title; *provided, further*, that any person who shall hold such lands under contract with the State for the purchase thereof, and occupy the same for the purpose of a home, may, with the written consent of the State Land Board, cut such timber as may be necessary for domestic use or to clear land for actual cultivation.

Section 31. The State Land Agent is hereby directed and empowered to investigate all trespasses on and damage to state lands and prosecute the same under the law, subject always to the consent of the State Land Board first obtained, and is directed and empowered to appear before the United States Land Office in all cases involving the title or claim of the State to its granted land or lands selected in lieu thereof and shall be authorized and empowered with the consent of the said board, to summon witnesses and the expenses of such investigations and contests shall be paid by order of the State Land Board out of the interest fund.

Section 32. At all hearings pertaining to the lands of the State of Oregon or any part thereof, as provided by this act, the State Land Board shall, in its discretion, have power to issue subpoenas and compel thereby the attendance of witnesses at such time and place as may be fixed by the board, to be stated in the subpoena, and to conduct the examination thereof. Said subpoenas may be served by the sheriff of any county, or by any other officer authorized by law to serve process, or by the State Land Agent, or any person over the age of twenty-one years, competent to be a witness, but who is not a party to the matter in which said subpoena is issued. Each person subpoenaed by the board on behalf of the State shall be allowed the same fees and mileage as provided by law to be paid witnesses in criminal cases in this State; and said fees and mileage shall be paid by warrant on the interest fund. Any person duly served with a subpoena as herein provided, and shall fail to obey the same without legal excuse, shall be considered in contempt, and the board shall certify the facts thereof to the circuit court of the district in which such witness may reside, and upon legal proof thereof such witness shall suffer the same penalties as are now provided in like cases in the courts in this State; *provided*, that the certificate of the State Land Board

shall be considered by the court as *prima facie* evidence of the guilt of the party charged with contempt.

Section 33. The State Land Board shall not call in question the title of any person to any swamp lands which he may have acquired by full and complete compliance with the pre-emption or homestead laws of the United States, nor shall the board sell to any one any unsurveyed swamp lands, or swamp lands on which any settler shall have made and perfected bona fide legal entry under the laws of the United States.

Section 34. Nothing in this act shall be construed to prevent the legislature of this State, or the corporate authorities of any city or town thereof, from regulating the building of wharves or other improvements in any bay, harbor, or inlet of this State, or construed as a grant of the exclusive right to any person or persons to use the natural oyster beds of this State. The grantee of any tide and overflow lands under this act shall hold the same subject to the easement of the public, as provided by the existing laws of this State, to enter thereon and remove, under the provisions and restrictions of the laws now in force or which may hereafter be enacted, oysters and other shell fish therefrom.

Section 35. In all cases where clerical errors have been made in deeds for any state lands heretofore or which may hereafter be sold, the State Land Board is authorized, upon the production of satisfactory proof of such errors, where the rights of innocent parties have not intervened, to execute corrected deeds to the holders thereof, keeping a record of the same; and where lands, other than tide or overflowed and unsurveyed or unpatented swamp lands, have been sold and the State cannot convey title to the purchaser, the State Land Board shall repay to the purchaser, his heirs or assigns, all sums which may have been paid to the board on account of the purchase price of said lands, including the interest paid upon deferred payments, upon the presentation of a proper application for repayment, the production of satisfactory proof of the facts and the surrender of the certificate, and the assignment, if held by assignment, or if deed has been issued, upon reconveyance by duly executed and recorded quit-claim deed of whatever title or color of title was received from the State. Where a certificate of sale has been issued by the State Land Board upon a false, forged, or fraudulent application and said certificate is held by assignment by a third party, who had no knowledge of the fraud at the time of such assignment, the State Land Board may, in its discretion, refund to the holder of such assigned certificate such sums as were paid the State Land Board on account of the purchase price of the lands covered by said certificate, including the interest paid

upon deferred payments, upon his making proper application to the board for repayment and surrendering for cancellation the said certificate and assignment.

Section 36. The irreducible school fund of this State shall be composed of the proceeds of the sales of the sixteenth and thirty-sixth section of every township of this State, or of any lands selected in lieu thereof; all the moneys and clear proceeds of all property which may accrue to the State by escheat or forfeiture; all moneys which may be paid as exemption from military duty; the proceeds of all gifts, devises and bequests made by any person to the State for common school purposes; the proceeds of all property granted to the State when the purpose of such grant shall not be stated; all proceeds of the sale of tide and overflow lands, and all the proceeds of the sale of the five hundred thousand acres of land to which this State is entitled by an act of Congress approved September 4, 1841, and all lands selected for capitol building purposes under act of Congress approved February 14, 1859; and all the proceeds as aforesaid shall be set apart as a separate and irreducible fund, to be called the "Irreducible School Fund," the interest of which shall be exclusively applied to the support and maintenance of common schools in each school district in this State; *provided, however*, that all lawful claims for repayment of moneys out of escheated estates and for attorneys' fees and all other expenses in any suit or proceeding relating to escheated estates shall be audited by the State Land Board and paid from said fund principal.

Section 37. All moneys belonging to the irreducible school fund, university fund, or agricultural college fund, shall be loaned by the State Land Board at six per cent per annum, interest payable semi-annually on the first day of January and the first day of July of each year; *provided, however*, that if at any time there be a surplus of either of these funds over and above all loans applied for, the State Land Board may, in its discretion, invest such portion of said surplus, as in their judgment they may deem proper, in bonds issued by school districts in the State of Oregon, the legality of such bonds to be approved by the Attorney-General.

Section 38. The principal and interest of all loans shall be paid in gold coin of the United States or its equivalent; and such loans shall be secured by note and mortgage to the State Land Board on real estate in this State of not less than thrice the value of the amount loaned, exclusive of perishable improvements, of unexceptionable title, and free from all incumbrances, or by a deposit of United States bond or bonds or treasury warrants of this State of a face value of not less than twenty-five per cent in excess of such loans. All the loans

herein provided for shall be made for the period of one year; *provided*, that in case the interest is promptly paid and the security remains unimpaired, the board may, in its discretion, permit the loan to stand for a period of not longer than ten years. Upon the payment of any loan, or of any bond, the principal shall again be loaned or invested in like manner as in this section provided.

Section 39. The State Land Board shall adopt such methods, rules and regulations for ascertaining the value of and state of the title of any lands proposed as security for any loan under the provisions of this act as shall be satisfactory to the board; *provided*, that all expenses of ascertaining the same shall be at the expense of the applicant, and in no case a charge upon the State or the fund from which such proposed loan is to be made.

Section 40. All notes for loans from any of the funds mentioned in this act shall specify the fund from which such loan was made.

Section 41. The State Land Board shall take all proper measures for the prompt collection of the interest on all loans from any of the funds specified in this act as fast as the same becomes due, and place the same to the credit of the fund from which the loan was made, to be paid out as provided by law, the interest on the university fund to the support of the University of Oregon, and the interest on the college fund to the support of the Agricultural College, and to be paid to the board of regents semi-annually.

Section 42. At the time of offering for sale any bonds issued by any school district in Oregon, notice of such issue and the amount thereof shall be given to the State Land Board by the school district officers in charge of such issue, and the State Land Board shall have the preferential right to purchase and pay for all or any number of said bonds out of the irreducible school fund, university fund, or agricultural college fund, or other funds in its hands or under its control, at their par value, provided said bonds cannot be sold by such school district for more than their par value. After receiving such notice the said State Land Board shall determine whether or not to purchase such bonds, or any number of them, and said State Land Board shall immediately thereafter give notice to the proper school district officers of its decision, which decision shall be binding upon the officers charged with the issuance and execution of such bonds. If the State Land Board determine not to make such purchase, or to purchase only a part of such issue, then the officials in charge of the execution of such bonds shall proceed to advertise and sell such bonds as the State Land Board elects not to take, in the manner now provided by law.

Section 43. There shall be presented to said State Land Board, at the time of the giving of the notice of such issue of bonds, full and complete proof of the proceedings and actions taken in reference to the issue of said bonds, with the opinion of the district attorney, or local attorney for the State Land Board, showing the regularity and legality thereof, together with a certificate showing the amount of the taxable property and the amount of the indebtedness against such school district, and any other information required by the State Land Board.

Section 44. Any purchase by said State Land Board may be made payable in any number of years, not less than one, and due in any number of years, not to exceed twenty, and any such bonds purchased by said State Land Board may be written or printed with or without coupons, and the denominations may be in any amount, not exceeding \$10,000, as may be agreed upon by the parties and the interest shall not be less than five per cent per annum.

Section 45. When any such bond or bonds are duly executed and delivered to the State Land Board, the State Land Board shall cause the same to be paid for, specifying the fund out of which the same is payable, in favor of the school district issuing such bonds, and the body receiving the same shall place the same to the credit of the fund for which the same was borrowed.

Section 46. All bonds purchased under the provisions of this act shall be subject to the sale and disposition at any time, under the order and direction of said board, when the said board shall deem it advisable to make such sale and disposition thereof; and the proceeds of such sale shall be divided and paid into the fund from which the investment was made, the principal to the permanent fund and the interest and other profits to the interest fund, and the principal may be reinvested in such bonds as may be deemed prudent by said land board. Every sale or disposition of bonds authorized in this section shall be reported, with the reasons therefor, to the legislature, in the biennial report of the State Land Board.

Section 47. It shall be mandatory upon all officers in charge of school districts for bond sales to first offer the proposed issue of bonds to the State Land Board for the investment of the irreducible school, university, or agricultural college, or other fund in their charge, and any willful failure to comply herewith shall be deemed a misdemeanor, punishable by a fine of not less than \$10 nor more than \$100, and the district attorney of the judicial district for the proper county must prosecute such offending officers upon the request of the State Land Board.

Section 48. The State Land Board shall on the first day of

August of each year, and oftener if deemed advisable, divide the interest on hand arising from the irreducible school fund among the several counties of this State in proportion to the number of children resident therein between the ages of four and twenty. The amount apportioned to each county shall be placed in the custody of the county treasurer, who shall report the same to the county superintendent of common schools for distribution among the several school districts of his county.

Section 49. It shall be the duty of the State Land Board to foreclose all mortgages taken to secure loans from the school or other funds whenever more than one year's interest on the loan is due and unpaid, and all mortgages which are not adequate security for the money loaned, and they may, in their discretion, bid in the land in the name of the State at a price not to exceed the total amount of the State's claim, or they may accept a deed or a release of the equity of redemption and all such purchases heretofore made are hereby ratified and confirmed.

Section 50. The clerk of the State Land Board shall keep a correct record of all such purchases with a description of the lands so purchased or acquired, and a statement of the fund to which they belong, and such lands shall be placed in the hands of the State Land Agent and sold or leased under the direction of the Board on the best terms obtainable, and the proceeds, to the amount of the principal of the loans, shall be paid into a fund from which the loans were made, and the excess, if any, to the interest account of said fund. All sales of lands acquired under foreclosure proceedings, heretofore made by said board are hereby ratified and confirmed, and whenever the full purchase price thereof shall have been paid, title in fee simple shall vest in the purchasers, their successors or assigns.

Section 51. Chapter 2 and chapter 3 of title XXXII of Bellinger and Cotton's Annotated Codes and Statutes of Oregon and an act entitled "An act providing for the selection of indemnity school land, and governing the sale of the same, and fixing the price thereof," approved February 24, 1903, and an act entitled "An act to amend section 3298 of Bellinger and Cotton's Annotated Codes and Statutes of Oregon," approved February 18, 1905, and an act entitled "An act to authorize and provide for the investment of the surplus of the irreducible school fund, university fund, or agricultural college fund, held by the State Land Board, and to authorize the said land board to make such investments," approved February 12, 1903, are hereby repealed.

Filed in the office of the Secretary of State, February 23, 1907.

LAWS RELATING TO STATE LANDS.

FROM BELLINGER AND COTTON'S ANNOTATED CODES AND
STATUTES OF OREGON.

CHAPTER IV.

OF THE CONFIRMATION OF LAND TITLES, AND OF DEFAULTS
ON PURCHASE PRICE NOTES.

§ 3331. Confirmation of Tide Land Titles.

The titles to all tide lands within this State, and all tide flats not adjacent to the shore in the waters of the State, which have been heretofore sold to purchasers by the State of Oregon,—where the purchaser has, in good faith, actually paid to the State the purchase price, and the same has been received by the State, and the purchaser has not purchased from the State to exceed three hundred and twenty acres of that character or class of land,—are hereby confirmed to such and all such purchasers and grantees of the State, without reference to the amount of any other character of lands purchased by such purchaser theretofore from the State. [L. 1899, p. 57, § 1.]

The title to land of a person not entitled to purchase state lands, who has obtained a deed thereto by making false affidavit as to his qualifications, is not confirmed by this section, as the statute was only for the purpose of confirming the title of persons purchasing tide lands who had formerly purchased the legal limit of other lands from the state: *State v. Carlson*, 40 —, 67 Pac. 516.

§ 3332. Confirmation of Titles to State, School, and University Lands.

All deeds to state, school, and university lands, the purchase price of which has been paid to the board of commissioners for the sale of school and university lands and for the investment of the fund arising therefrom, are hereby confirmed to the grantees of the state, or to their lawful heirs or assigns, together with all right, title, or interest which the state might or could have in any of the said lands; *provided*, that this act shall not apply to or confirm the title to any lands which were procured by false swearing or by fraudulent representations. [L. 1891, p. 102, § 1.]

§ 3333. Notice to Delinquents—Lands Forfeited, When.

The said board of commissioners is hereby authorized and directed to forthwith notify all purchasers of lands who have

not paid the interest due on their notes given for the purchase price of such lands, in accordance with law, to pay such delinquent interest within six months from the date of the passage of this act. If any such purchaser shall fail to pay any such arrears of interest within the time required by this act, the land described in his certificate of sale shall be considered forfeited, and shall be subject to sale to any lawful applicant therefor; *provided, however*, that if such arrears of interest be paid within six months from the date of the approval of this act, or if after the expiration of such period, and prior to any application for such land, the original purchaser shall tender to the board the full amount of interest due, together with the principal of his unpaid notes, he shall be entitled to receive a deed for such land. [L. 1891, p. 102, § 2.]

§ 3334. **Confirmation of Title to Swamp Lands.**

All the rights and title of the State of Oregon to the swamp and overflowed lands of this State, and claimed by persons who have completed settlement thereon, or who may hereafter complete settlement under the provisions of the pre-emption or homestead laws of the United States, and shall have obtained a patent or certificate of final proof therefor, be and is hereby granted and confirmed unto such claimant, his heirs or assigns, respectively. [L. 1885, p. 131, § 1; H. C. § 3613; L. 1889, p. 100, § 1.]

§ 3335. **Quitclaim Deed to Issue in What Cases.**

Upon application of any such claimant to the State Board of Land Commissioners, with proof of claim evidenced by United States patent or final certificate of proof of settlement and payment, issued from the United States land office, said board shall execute and deliver to such claimant, without charge, a quitclaim deed of the State's right and title to the lands so claimed. [L. 1885, p. 131, § 2; H. C. § 3614; L. 1889, p. 100, § 2.]

CHAPTER V.

OF RIGHTS OF WAY OVER STATE LANDS.

§ 3336. **Right of Way for Railroads.**

There is hereby granted to any and all railways hereafter to be built within the boundaries of the State, to the companies or corporations constructing the same, to their successors and assigns, a right of way through any and all unimproved lands belonging to the State of Oregon, of the width of one hundred feet, being fifty feet in width on each side of the center line of

said road or roads when located and staked out, through or over any lands of the State, and also all the necessary grounds for stations, depots, shops, sidetracks, turntables and water stations, not exceeding ten acres in any one place, upon payment to the State of such sum therefor as is or shall be fixed by the State Land Board in the sale of similarly situated lands, and also the right to take from the lands of this State adjacent to the lines of said routes of the said road, timber, earth, stone, water and other material necessary for the construction of said roads; also the right to construct and maintain railroad bridges over any and all streams, rivers, bays, inlets or other navigable waters in this State; *provided*, that all such bridges crossing navigable waters shall be subject to such regulations, restrictions and compensation as may be fixed by the State Land Board; *provided, further*, that said bridges shall be so constructed as not to unnecessarily interfere with the navigation of any such streams, rivers, bays, inlets or other navigable waters. [L. 1907, p. 415, § 1.]

§ 3337. **Maps of Location and Depot Sites to be Filed.**

Whenever said company or companies, their successors or assigns, shall file with the Board of School Land Commissioners a map or maps of the definite location of its or their lines of road through any lands of this State, it shall be the duty of said board to cause the said located line to be traced upon the maps of the State in use by the said board, and thereafter in all conveyances of lands to except from sale said right of way and lands for depot stations and other purposes as are herein named; and whenever said company or companies shall have selected a tract or tracts of lands belonging to said State for stations, depots, or other purposes herein mentioned, and shall file with the board a map of the same, with description of the same connected with the public surveys of the United States, said tract or tracts of State lands shall also be designated upon the said maps in use by the said board, and it shall be the duty of the board thereupon to execute and deliver to said company, its successors or assigns, deeds for said tracts of land so selected, upon payment therefor at the rate of one dollar per acre and upon the completion of the construction of a railroad through said lands. [L. 1891, p. 180, § 2.]

§ 3338. **Rights of Way for Water Ditches and Pipes.**

A right of way for the construction of a water ditch to be used for irrigation, manufacturing, or mining purposes, ditches or water pipes for conveying water to cities and towns for domestic purposes, or for the extinguishment of fires, is hereby granted to any individuals or corporations who may construct

such water ditches or water pipes over any of the State lands belonging to the State of Oregon,—tide, swamp, and overflowed lands, and school lands,—for a distance on each side of said ditches or water pipes of twenty-five feet. [L. 1885, p. 73, § 2; H. C. § 4058.]

§ 3339. Copy of Notes of Survey of Ditches, etc., to be Filed.

It shall be the duty of said water company or individuals constructing said water ditches or water pipes to file a copy of the field notes of the survey of such ditches or water pipes with the Secretary of State of the State of Oregon, showing the location of said water ditch or water pipe. [L. 1895, p. 73, § 3; H. C. § 4059.]

§ 3340. State Patents Subject to Vested Water Ditch and Pipe Line Rights.

All patents hereafter granted by the State of Oregon for any of the class of lands heretofore mentioned shall be made subject to any vested rights of the owners of such water ditches or water pipes as may have been acquired under the preceding sections. [L. 1885, p. 73, § 4; H. C. § 4060.]

The reservation of vested rights of the owners of ditches here provided is not a grant of a new easement, but the recognition of a pre-existing right: *Carson v. Gentner*, 33 Or. 523, 52 Pac. 506, 43 L. R. A. 130.

The act of 1885 provided for rights of way for railroads, as well as for water ditches and pipe lines, over State lands. The act of 1891, (ante, §§ 3336, 3337) repeals by implication section 1 of the former act (§ 4057, H. C.), and supersedes so much of sections 3 and 4 (§§ 4059 and 4060, H. C.), as relates to railroads. The words "railroad" and "railroads," occurring in sections 3 and 4, and all of section 1 of the act of 1885, are therefore omitted.

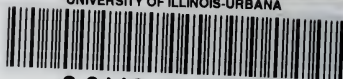
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